

REMARKS

Status of Application

Claims 2-14 and 16-26 are pending in the application; the status of the claims is as follows:

Claims 13, 23, and 26 are objected to.

Claims 22 and 23 (and their respective dependent claims) are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 2, 4-10, 12, 16-20, and 22 are provisionally rejected on the ground of non-statutory obviousness-type double patenting.

Claim Amendments

Claims 22 and 23 have been amended to recite, as suggested by the Examiner, “the plurality of lens units.” Claim 13 has been amended to recite “comprising:” as suggested by the Examiner. Claims 13, 23, and 26 have been amended to require that the third lens unit have a “positive” power. These changes are not necessitated by the prior art, are unrelated to the patentability of the invention over the prior art, and do not introduce any new matter.

35 U.S.C. § 112 Rejection

The rejection of claims 22 and 23 (and their respective dependent claims) under the second paragraph of 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention, is respectfully traversed based on the following.

Claims 22 and 23 have been amended, as suggested by the Examiner, to recite “the plurality of lens units.” These amendments are believed to remove any possible vagueness.

Accordingly, it is respectfully requested that the rejection of claims 22 and 23 (and their respective dependent claims) under the second paragraph of 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention, be reconsidered and withdrawn.

Double Patenting Rejection

The provisional rejection of claims 2, 4-10, 12, 16-20, and 22 under the judicially created doctrine of double patenting over claims 1-21 of co-pending Application No. 10/611,016 (now U.S. Patent No. 7,408,583), is respectfully traversed based on the following.

It is noted that section 804.02 of the MPEP states that:

A rejection based on a non-statutory type of double patenting can be avoided by filing a terminal disclaimer in the application or proceeding in which the rejection is made.

Further:

The filing of a terminal disclaimer to obviate a rejection based on non-statutory double patenting is not an admission of the propriety of the rejection.

Accordingly, a terminal disclaimer prepared and executed in accordance with section 1490 of the MPEP is submitted herewith.

According, the provisional rejection of claims 2, 4-10, 12, 16-20, and 22 under the judicially created doctrine of double patenting over claims 1-21 of co-pending Application No. 10/611,016 (now U.S. Patent No. 7,408,583), be reconsidered and withdrawn.

CONCLUSION

Wherefore, in view of the foregoing amendments and remarks, this application is considered to be in condition for allowance, and an early reconsideration and a Notice of Allowance are earnestly solicited.

This Amendment does not increase the number of independent claims, does not increase the total number of claims, and does not present any multiple dependency claims. Accordingly, no fee based on the number or type of claims is currently due. However, if a fee, other than the issue fee, is due, please charge this fee to Sidley Austin LLP Deposit Account No. 18-1260.

If an extension of time is required to enable this document to be timely filed and there is no separate Petition for Extension of Time filed herewith, this document is to be construed as also constituting a Petition for Extension of Time Under 37 C.F.R. § 1.136(a) for a period of time sufficient to enable this document to be timely filed.

Any other fee required for such Petition for Extension of Time and any other fee required by this document pursuant to 37 C.F.R. §§ 1.16 and 1.17, other than the issue fee, and not submitted herewith should be charged to Sidley Austin LLP Deposit Account No. 18-1260. Any refund should be credited to the same account.

Respectfully submitted,

By: /Mark A. Dodd/ Reg. No. 45,729
Mark A. Dodd
Registration No. 45,729
Attorney for Applicants

MAD/llb:bar
SIDLEY AUSTIN LLP
717 N. Harwood, Suite 3400
Dallas, Texas 75201
Direct: (214) 981-3481
Main: (214) 981-3300
Facsimile: (214) 981-3400
October 27, 2008